

### REMARKS

Claims 16-42 are pending. Claims 16-20 are indicated allowable. Claims 21-42 have been rejected. All of Applicant's rejected claims relate to an aqueous emulsion for coating the internal surface of a food casing. The aqueous emulsion includes a polyglyceryl ester having at least two glyceryl moieties and greater than 50 wt % water. Food casings are coated with the aqueous emulsion to assist in release of the food casing from contained food product.

Claims 21, 25-31, 33, and 36-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over GB Patent Specification 1 470 727 ("Tee-Pak") in view of U.S. Patent No. 5,431,710 to Clapp *et al.* ("Clapp").

Though Clapp *et al.* does, as the Examiner states, relate to a release composition, Clapp *et al.* is not analogous art. Clapp *et al.* is directed to a parting composition to be applied to cooking utensils, such as baking and frying pans, in order to prevent food from sticking to the utensil during cooking. (col. 1, lines 13-19). The cooking temperatures employed with frying and baking of food products are much higher than the temperatures employed with cooking food in food casings. Frying and baking temperatures are often in the range of 300F to 400F. At such temperatures, the moisture is driven from the food. Additionally, one concerned with development of such a coating is typically concerned with the adhesion characteristics of food to an inflexible, metal or Teflon coated surface of the baking or frying pans.

In contrast, the cooking process employed for the turkey, ham and other meat products in coated food casings of the present invention is steam cooking at a typical temperature range of 150F to 180F. In such a process, the meat products retain their moisture. One concerned with development of a coating of the present invention is concerned with the adhesion characteristics of a food product to a flexible food casing.

Lastly, the coated food casing of the present invention must be designed and used for the purpose of affecting both the cling and the release characteristics of the food casing. Unless the food casing adheres to the meat mass during processing, separation between the meat mass and the sidewall of the casing occurs which increases the potential for void fat pockets, and a final product having an unappetizing appearance. Such products have poor customer acceptance.

One with ordinary skill in the art would not look to "pure" release coating technology during the development of a cling/controlled release coating for a food casing.

For the foregoing reasons, Clapp et al. is not analogous art because the art of Clapp et al. is not concerned with imparting a specific level of adhesion prior to release of the food product from a flexible casing after cooking at temperatures significantly below the temperatures used for frying or baking.

When making an obviousness rejection, the Examiner must provide a motivation to combine the references. In providing this motivation, the Examiner must view the references without using the disclosure of the present invention to provide hindsight. Rather, obviousness can only be established by combining or modifying the teaching of the prior art where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (See M.P.E.P. §2143.01)

It is asserted that it would have been obvious to one of ordinary skill to add a polyglycerol ester disclosed in Clapp to the release composition of Tee-Pak. However, the Examiner is improperly using hindsight gleaned from the present invention to arrive at this conclusion. The Examiner has not provided evidence for a motivation to combine or modify the references, in the references themselves.

Moreover, no evidence is provided that the knowledge generally available to one of skill in the art provides such a motivation. Tee-Pak relates to rapid peel sausage casing coatings. Clapp relates to a foodstuffs parting composition that can be used, for example to coat cooking surfaces. Nowhere does Clapp teach or suggest the use of the disclosed parting composition as a component in a food casing. Additionally, the Examiner has provided no evidence why one of skill in the art would be motivated to use a polyglyceryl ester as disclosed in Clapp instead of other emulsifying agents, for example, such as those disclosed in Hammer, which discloses sausage casings having improved peelability. Accordingly, the Examiner has provided no evidence of a motivation to combine the references, and Applicant requests that the obviousness rejection be withdrawn.

Claims 22-23, and 34-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,370,914 to Hammer *et al.* ("Hammer") in view of Clapp. As with the combination of references above, Applicant asserts that the Examiner has provided no motivation to combine the teachings of the cited references. Hammer relates to peelable sausage casings and discloses a list of compounds to be used as emulsifiers, none of which include polyglyceryl esters. (See Col. 3, lines 55-64.) The Examiner has provided no motivation (either in the references themselves or based on the knowledge of in the art) of why one of skill in the art would be motivated to use the polyglycerol ester disclosed in the non-analogous art of Clapp with the coating disclosed in Hammer. Moreover, Hammer actually teaches away from the use of polyglycerol as an emulsifier, disclosing instead emulsifiers such as alkane diols, sorbitol monoesters, etc. Accordingly, Applicant asserts that the Examiner has failed to provide evidence of a motivation to combine the references and requests that the corresponding rejection be withdrawn.

Claims 24 and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tee-Pak in view of Clapp as evidenced by U.S. Patent No. 3,966,632 to Colliopoulos *et al.* ("Colliopoulos"). For at least the reasons discussed with respect to claims 21, 25-31, 33, and 36-42, Applicant asserts claims 24 and 32 are not rendered obvious by the combination of Tee-Pak with Clapp. While the Examiner asserts that Colliopoulos provides evidence of such a combination, Applicant disagrees.

Colliopoulos discloses the use of polyglyceryl esters to improve the stability of emulsions of oil. Colliopoulos does not relate to food casing products, but rather relates to a vegetable oil emulsion, suggesting that the emulsion can be used in the food industry, for example in the baking industry as shortening for breads and pastries or for the manufacture of mayonnaise. Nowhere does Colliopoulos suggest the use of a polyglyceryl ester as an emulsifier in a food casing. Moreover, the Examiner has not provided evidence why one of skill in the art would be motivated to use the emulsifiers disclosed in Colliopoulos (which are described for use, for example, in the baking industry) rather than other emulsifiers known in the art, for example, the emulsifiers disclosed in Hammer (which are used in peelable casing compositions). Without

Applicant : Harsh Gopal  
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such a motivation, the references do not support a *prima facie* case of obviousness and Applicant requests the rejection be withdrawn.

Applicant believes that no fee is due. However, if Applicant has reached this conclusion in error, please apply any other charges or credits to deposit account 06-1050, referencing attorney docket number 15836-037001.

Respectfully submitted,

Date: 1/5/04

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